

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
THURSDAY, APRIL 7, 2005, 6:30 P.M.**

Commission

Members Present: Walter Baade Mareth Kipp Pat Haukohl
 Gary Goodchild Walter Kolb Ellen Gennrich

Commission

Members Absent: Betty Willert

Staff

Members Present: Kathy Moore, Senior Planner

Guests Present: Michael Toebe Attorney Dan Fay

CALL TO ORDER

Walter Baade, Chairperson, called the meeting to order at 6:30 p.m. at the Town of Lisbon Hall.

SCHEDULED MATTERS

- Discuss number of living units – J.B.J. Property - Town of Brookfield - 2005 Waukesha County Development Plan Amendments

There was discussion regarding a clarification of the Commission's condition of 43 living units on the J.B.J. amendment in the Town of Brookfield for the 2005 Waukesha County Development Plan. After Ms. Moore, Senior Planner went over the figures and stated the Commission may have had the wrong acreage in determining the number of units, it was determined by the Commission that the appropriate number was 46 units. It was unanimously determined by the Commission that the number of living units should be 46 units.

- Public Hearing and Action on SCU-1188, SCU-1188A and SCU-1188B
 Toebe Property – Town of Lisbon – Golf Course
- Public Hearing and Action on SCU-1188A
 Toebe Property – Town of Lisbon – Clubhouse, Maintenance Building and related facilities
- Public Hearing and Action on SCU-1188B
 Toebe Property – Town of Lisbon – Golf Driving Range

The public hearing was then called to order by Chairman Schmitz of the Town of Lisbon Plan Commission regarding the termination request of the Waukesha County Park and Planning Commission for SCU-1188 (which allowed the construction of a golf course and retention of the existing farmhouse and farm building for a golf course clubhouse and maintenance building), SCU-1188A (which allowed the construction of a new golf course clubhouse and maintenance building and golf shelters subject to a number of conditions) and SCU-1188B (which allowed the construction of a driving range, berms and additional parking subject to a number of conditions).

Ms. Moore explained, the original Conditional Use for the golf course was approved in October 1998, subject to a number of conditions being complied with, one of which stated the completion date was to be no later than November 1, 1999. On January 31, 2000, the Waukesha County Park and Planning Commission extended the completion date to May 1, 2000. Subsequently, on April 24, 2000, the completion date was waived until approval of the Final Plat. The Plat was recorded on August 31, 2001. Subsequent to that, in January 2002, a new Conditional Use (SCU-1188A) was approved, subject to a number of conditions to allow the construction of a new golf course clubhouse, maintenance building and golf shelter to be constructed in accordance with the plans submitted on November 5, 2001. That approval was conditioned on approval of the Site Plan/Plan of Operation, compliance with the Erosion and Stormwater Plan, landscaping, lighting and approval by the Town Plan Commission and the Staff prior to installation, allowed one temporary trailer for six months and required completion by April 1, 2004. Further conditions involved documentation from the Fire Department, recording of the Conditional Use and the fact that no weddings, banquets or other outings would be allowed during daylight hours and a maximum of 44 patrons in the bar and 174 patrons in the banquet facility. Additional certification by the Town Engineer of the turning radiuses in the parking lot, three golf shelters and issuance of a Restaurant License were required. It was noted that a Restaurant License was conditionally issued, subject to all conditions of the Conditional Uses (CU) and the CU Permits being issued no later than March 31, 2005.

Since that time, a new Restaurant License has not been issued as the conditions of the Conditional Uses have not been complied with. In September 2004, another Conditional Use was granted to legalize a fill violation on the property, which the Toebe Family Trust has purchased north of the golf course and clubhouse to allow a driving range with no practice holes subject to some berming, written approval of the adjacent property owners and approval of the Site Plan/Plan of Operation. In May 2003, a letter was written by Senior Planner, Kathy Moore regarding the Site Plan/Plan of Operation and a number of outstanding issues with regards to SCU-1188A and that the Site Plan/Plan of Operation was not being approved for a number of reasons. On October 18, 2004, a letter was sent to Mr. Toebe requesting documentation that the project had been completed by the October 1, 2004, date and requesting documentation that they had received an Occupancy and Use Permit as the Building Inspector indicated that none had been issued. In that request, it was requested that all structures and the operation cease immediately until the Occupancy Permits were issued. On November 4, 2004, another letter was written to Mr. Toebe stating that the Occupancy Permits were in the process of being issued and the issues pertaining to the Fire Department and Building Inspector needed to be completed and that no Site Plan/Plan of Operation had been approved by the Town and County Plan Commission's. The Staff asked that they address all of the May 12, 2003, correspondence regarding the outstanding issues. On March 3, 2005, Ms. Moore explained that the Occupancy Permit was issued in November 2004 and the Attorney and Mr. Toebe were given until after Christmas to complete the necessary information so the Town and County Plan Commission representatives could then approve the Site Plan/Plan of Operation so the Conditional Use Permits could be issued.

Other correspondence was sent to Mr. Toebe regarding filling and grading which was again occurring on the northerly property in violation of SCU-1188B as the Conditional Use Permit had not been issued for that property as the conditions had not been complied with and the new plans which were submitted were not going to be approved as it showed grading and filling in the Environmental Corridor. On March 11, 2004, another letter was written to Mr. Toebe concerning the Waukesha County Park and Planning Commission's action to direct the Staff to schedule a public hearing for termination of the Conditional Uses SCU-1188, SCU-1188A and SCU-1188B, and that all fill would have to be removed within 60 days.

It was also indicated in correspondence by the Staff, if the petitioner submitted the necessary application by March 17, 2005, and received the Site Plan/Plan of Operation prior to commencement of the public hearings, which were scheduled on April 7, 2005, that the Staff was authorized to withdraw the petition to terminate the Conditional Uses. The Staff met with Mr. Toebe, his Attorney, Ron Evert (Town of Lisbon Board and Plan Commission), John Stigler (Town Engineer), Jeff Musche (Town Administrator) and a representative of the Land Resources Division to discuss what needed to be done. Ms. Moore reiterated those comments in correspondence dated March 17, 2005, to Mr. Evert. Ms. Moore then gave reasons why the Conditional Uses had not been complied with and felt the County had been more than patient as the original Conditional Uses indicated in his application that all projects would be completed no later than the spring 2002 and now it is three years later and nothing had been completed.

Attorney Fay and Mr. Toebe then came to the table and tried to explain their side of the story. They indicated that a number of issues would be resolved within 60 days and tried to reiterate and explain plans. The Plan Commission then explained that they were not here to discuss specific plans but to get the issues resolved. A resident (who was also a lighting expert) explained that Mr. Toebe had ordered lights and cancelled them and now if lights were to be reordered, it would be at least 12 weeks before they would be available for the project. Mr. Toebe and his Attorney stated that the new lights were upscaled and would be less intrusive to the adjacent residential property owners and the public traveling Woodside Road.

Ms. Moore then explained what her most recent field investigation had observed on April 4, 2005, and what issues still had not been addressed. She then explained to the Waukesha County Park and Planning Commission that they would have to make a finding under Section 3.07(6)(A) of the Waukesha County Shoreland and Floodland Protection Ordinance that the Conditional Use had not continued in conformance with the conditions of the permit and should have the following options:

1. Terminate one or all of the existing Conditional Uses.
2. Modify the Conditional Use approvals to extend the time period for completion to state that the clubhouse and golf course does not operate until such time as the following items are completed as required in the conditions of SCU-1188, SCU-1188A and the Department of Parks and Land Use issues the Conditional Use Permit for the restaurant license.
 - a. That required that the Lighting Plan be completed in accordance with Exhibits "H1 and H2".
 - b. The Landscaping Plan for the golf course, clubhouse, the area around the buildings and parking lot be completed in accordance with the Plan dated November 3, 2000.
 - c. The parking lot was to be asphalted and striped.
 - d. The Signage Plan was to be completed and the signage had to meet the necessary setback and offset requirements.
 - e. The Town Engineer certified that all of the turning radius's in the parking areas could be accommodated by semi trucks.

- f. The Land Resources Division certify that the Erosion Control and Stormwater Plan had been completed near the maintenance building and the re-vegetation of the Environmental Corridor had been completed in accordance with the plan dated February 8, 2001.
- g. The dumpster be screened appropriately.
- h. All cart paths are asphalted appropriately.

There was a lengthy discussion between the two Plan Commissions and Mrs. Gennrich who asked Ms. Moore if there were any other options? Another option was one that Attorney Price, Principal Corporation Counsel was not in favor of, which was to adjourn the public hearing and continue it on a date certain to determine if any or all of the items were completed and allow the petitioner to continue to operate the golf course. A petition was then read by the residents of the Fairways of Woodside development who showed dissatisfaction with what had been completed and felt that the County and Town should push for completion of the project. It should be noted that many of the petitioner's issues are not items, which are conditions of the Conditional Use approvals, such as shades and location of trash cans, etc. In addition, there was discussion if an extension was given, since the Site Plan/Plan of Operation could not be approved, what other options the Commissions would have in trying to get the Site Plan/Plan of Operation approved prior to the middle of June if he was to complete it within the 60 days. It was determined that Mr. Stigler, Town Engineer and Kathy Moore would have the authority to approve the Site Plan/Plan of Operation so that Mr. Toebe could proceed with the project. A motion was made by Mrs. Gennrich who stated that the public hearing should be adjourned and continued on June 16, 2005, at 6:30 p.m. at the Town of Lisbon Hall and if Mr. Toebe has not completed all of the items in order to comply with the conditions of the Conditional Use so the permit can be issued, the Commission would vote to terminate the Conditional Use (SCU-1188, SCU-1188A and SCU-1188B). The motion was seconded by Mrs. Kipp and carried unanimously.

The meeting was adjourned at approximately 9:30 p.m.

Respectfully submitted,

Ellen Gennrich
Secretary

KM:kb